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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,597	03/25/2004	Jon J. DeHart	061270-0892	5611

22428 7590 11/23/2004

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/808,597	<b>Applicant(s)</b> DEHART ET AL.	
	<b>Examiner</b> Robert G. Santos	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004 and on 16 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08162004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 1, 5, 8, 10, 11, 13 and 16 are objected to because of the following informalities:  
In claim 1, lines 6 & 7; claim 5, line 2; claim 8, lines 2 & 3; claim 10, line 5; claim 11, line 2; claim 13, line 2; and in claim 16, lines 2 & 3: The phrase --at least one-- should be inserted before the term "ventilation". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Wagner et al. '573. As concerns claims 1, 4, 10 and 11, Wagner et al. show the claimed limitations of a child containment structure (10) comprising: a floor (16); and a sidewall (22, 30) including at least one padded side panel (30) connected to the floor and defining a unitary structure with the floor, the sidewall including at least one side panel (32) formed at least partially of an air-restricting material (as described in column 4, lines 2-5) and at least one ventilation panel (36) positioned between the floor and the side panel, the at least one ventilation panel having a maximum height smaller than that of the side panel (as shown in Figures 1-5), the at least one ventilation panel permitting air flow between an interior of the containment structure and an exterior of the

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containment structure along a sleeping surface of the child containment structure (as shown in Figure 4 and as described in column 4, lines 25-27). With regards to claims 2, 3 and 12, the reference is considered to show the use of a mattress pad (24) positioned above and padding (24) included with the floor in Figures 1, 4 & 5 and in column 3, lines 51-52. With regards to claims 5 and 13, the reference is considered to show a condition wherein the at least one ventilation panel comprises at least one of mesh and a perforated rigid material in column 3, lines 60-61. As concerns claims 6 and 14, the reference discloses a condition wherein the sidewall includes at least four side panels, and wherein the at least one ventilation panel includes at least four ventilation panels, each of the ventilation panels positioned between the floor and respective one of the side panels (see Figures 1, 4 & 5). With regards to claims 7 and 15, the reference is considered to show a condition wherein the at least one ventilation panel comprises more than one ventilation panel positioned between the floor and the side panel in Figures 1 & 6-8. As concerns claims 8 and 16, the reference discloses a condition wherein the height of the at least one ventilation panel varies along its length, and the maximum height of the at least one ventilation panel is smaller than a minimum height of the side panel (see Figure 7 and column 5, lines 3-6). With regards to claims 9 and 17, the reference is considered to show a condition wherein the at least one side panel comprises at least four side panels, adjacent ones of the side panels forming corners therebetween, and wherein the at least one ventilation panel includes ventilation material located at least of the corners in Figure 1 and in column 3, lines 56-61.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burbidge et al. '304 in view of Schettler, Jr. '907. Burbidge et al. are considered to show all of the claimed limitations as recited in claims 1-8 and 10-16 (note especially Figures 1-3; column 1, lines 37-46 and column 2, lines 18-21) except for the condition wherein the at least one ventilation panel (26-29) comprises at least one of mesh and perforated rigid material. Schettler, Jr. provides the basic teaching of a child containment structure (62, 63, 72, 73) including at least one ventilation panel (80) comprising mesh material (as described in column 4, lines 10-12). The skilled artisan would have found it obvious at the time the invention was made to provide the child containment structure of Burbidge et al. '304 with at least one ventilation panel comprising at least one of mesh and perforated rigid material in order to maintain enhanced ventilation while ensuring that a child enclosed within the structure remains safely therein as desired.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hardy '263, Hartenstine et al. '570, Cheng '575, Wagner et al. '362, Warner, Jr. et

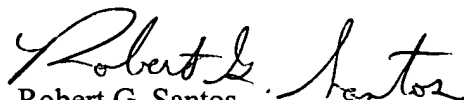
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al. '535, McCloud '101, Wang '218, Pine '216, Glassford '885, Gerhart '548, Tharalson et al. '349, Myers '465, Dillner et al. '111 and Dillner et al. '437.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
November 19, 2004